

## Remarks

Pending claim 7 is rewritten as new claim 19 in independent form including all of the limitations of claim 1 and intervening claim 6.

In contrast to the Examiner, we are convinced that pending claim 7 is not anticipated by Sheidler (US 6,662,554) for the following reason:

Sheidler discloses in column 3, lines 38 to 42:

As boost pressure in the intake manifold 110 increases, the damper (84) is proportionally opened to bypass an amount of exhaust gas to the outlet 66 of the station 56. The exhaust back pressure would thus be reduced during high power demand.

According to this, the exhaust gas will predominantly flow through the first muffler 72 at a low exhaust gas pressure. Such a low exhaust pressure correlates to a low engine speed. At a high exhaust pressure the exhaust gas predominantly flows through the second muffler 76. Such a high exhaust gas pressure correlating to a medium engine speed the exhaust gas flows through both mufflers.

To this end, Sheidler discloses a sort of valve device that switches from the first muffler to the second muffler depending on exhaust gas pressure, i.e. engine speed. There is only one switching movement that transfers the damper 84 from a first end position (path to first muffler open and path to second muffler closed) to a second end position (path to first muffler closed and path to a second muffler open) via several intermediate positions (both paths open).

This is exactly not the invention according to pending claim 7. According to pending claim 7 the exhaust gas flows through the first muffler at a low engine speed, through the second muffler at a medium engine speed and through the both mufflers at a high engine speed. Only with this combination of features it is possible to adjust the flow resistance of the exhaust gas system depending on the engine speed over the whole range of possible engine speeds:

In a low speed range only or predominantly the first muffler is active. The first muffler may be designed for achieving an optimized muffling effect. Flow resistance is of reduced interest in the low speed range.

In a medium speed range only or predominantly the second muffler is active. The second muffler may be designed for achieving an optimized power of the internal combustion engine, i.e. a minimized flow resistance. Muffling effect is of reduced interest in the medium speed range if power is requested.

In a high speed range both mufflers are active. Therefore, with respect to the medium speed range the first muffler provides the exhaust gas system with an additional gas path. This additional gas path may have a relative high flow resistance but anyhow it is a gas path parallel to the gas path through the second muffler and therefore reduces the overall flow resistance of the exhaust gas system.

Since switching movement of the damper element of Sheidler depends on the exhaust gas pressure, high exhaust gas pressure always will close the path through the first muffler. Therefore, Sheidler cannot give any hint to the combination of features according to pending claim 7. Consequently Sheidler cannot anticipate pending claim 7.

Galaisis (US 6,454,047) discloses an exhaust gas system comprising several accumulators 310A and 310B (see e.g. Fig. 5) to form a transmittance path between a noise source 312 and an external environment 318. The system also comprises several valves 320A1, 320A2, 320B1, 320B2 adapted to selectively provide communication between a selected accumulator and the noise source and, respectively, between the selected accumulator and the environment. Column 12, line 47 to column 14, line 62 provides a detailed description of operation of this exhaust gas system.

However, Galaitsis does not disclose any hint on an exhaust gas system with different mufflers which are activated and de-activated depending on the engine speed. Therefore, Sheidler in view of Galaitsis also cannot anticipate pending claim 7.

Flugger (US 5,351,481) discloses another exhaust gas system having a balanced chamber 52. There is no evidence for a muffler in this system. Thus, Flugger cannot provide any hint for a two muffler system wherein the mufflers are activated and de-activated depending on the engine speed. Therefore, Sheidler in view of Flugger too cannot anticipate pending claim 7.

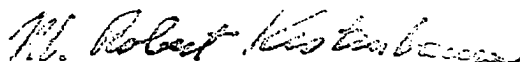
General Comments on the Office Action

We agree with the Examiner's suggestions to overcome informalities on page 2 and 3 of the Office Action. We provide appropriate corrections in this Amendment.

With respect to the 112-rejection we delete "in particular of a motor vehicle" in pending claim 1 and add a new claim 20 incorporating this feature. Additionally, we replace "muffling effect and/or flow resistance" with "muffling effect, or flow resistance".

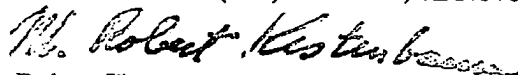
Wherefore further consideration and allowance of the claims as amended is hereby requested.

Respectfully submitted,



M. Robert Kestenbaum  
Reg. No. 20,430  
11011 Bermuda Dunes NE  
Albuquerque, NM USA 87111  
Telephone (505) 323-0771  
Facsimile (505) 323-0865

I hereby certify this correspondence is being submitted to Commissioner for Patents, Alexandria, Va. 22313 by facsimile transmission, fax number (703) 872 9306, on November 21, 2004.



M. Robert Kestenbaum